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SENATE BILL 496

48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008

INTRODUCED BY

Cisco McSorley

AN ACT

RELATING TO CRIMINAL LAW; CREATING A NEW CRIMINAL OFFENSE KNOWN AS INVOLUNTARY SERVITUDE; REQUIRING ACCESS TO CERTAIN STATE BENEFITS AND SERVICES FOR INVOLUNTARY SERVITUDE VICTIMS; PROVIDING CIVIL REMEDIES; PROVIDING PENALTIES; MAKING APPROPRIATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Criminal Code is enacted to read:

"[NEW MATERIAL] INVOLUNTARY SERVITUDE.--

A. Involuntary servitude consists of a person knowingly subjecting another person to forced labor or services.

B. Whoever commits involuntary servitude is guilty of a second degree felony.

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1 C. In a prosecution pursuant to this section, an
2 involuntary servitude victim shall not be charged with
3 accessory to the crime of involuntary servitude.

4 D. A person convicted of involuntary servitude
5 shall, in addition to any other punishment, be ordered to make
6 restitution to the victim for the gross income or value of the
7 victim's labor or services and any other actual damages in
8 accordance with Section 31-17-1 NMSA 1978.

9 E. As used in this section, "forced labor or
10 services" means labor or services that are obtained from a
11 person by another person who, for the purpose of exacting labor
12 or services:

13 (1) causes or threatens to cause severe
14 nonphysical harm to any person;

15 (2) uses or threatens to use physical force or
16 restraint against any person;

17 (3) abuses or threatens to abuse the law or
18 legal process, including threatening to report the immigration
19 status of any person to governmental authorities; or

20 (4) knowingly destroys, conceals, removes,
21 confiscates or possesses any actual or purported government
22 document of any person."

23 Section 2. [NEW MATERIAL] INVOLUNTARY SERVITUDE--BENEFITS
24 AND SERVICES FOR INVOLUNTARY SERVITUDE VICTIMS.--

25 A. Involuntary servitude victims found in the state
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1 shall have access to the following benefits and services from
2 the state regardless of immigration status and the victim's
3 willingness to cooperate with law enforcement agencies:

- 4 (1) case management services;
- 5 (2) general assistance;
- 6 (3) emergency temporary housing;
- 7 (4) child care;
- 8 (5) health care;
- 9 (6) mental health counseling;
- 10 (7) drug addiction screening and treatment;
- 11 (8) language interpretation, translation
12 services and English language instruction;
- 13 (9) job training, job placement assistance and
14 post-employment services for job retention;
- 15 (10) services to assist the victim and the
16 victim's family members; and
- 17 (11) other assistance, benefits and services
18 as determined by the children, youth and families department or
19 the human services department.

20 B. Within ninety-six hours of identifying the
21 presence of an involuntary servitude victim in New Mexico, a
22 state or local law enforcement official shall review and
23 evaluate the victim's case and any reports of the crime and
24 issue a letter to the appropriate agencies certifying the
25 victim's eligibility for benefits and services pursuant to this

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1 section.

2 C. As used in this section, "involuntary servitude
3 victim" means a person:

4 (1) subjected to involuntary servitude in New
5 Mexico as certified by a state or local official regardless of
6 whether the perpetrator of involuntary servitude is charged
7 with the crime of involuntary servitude; or

8 (2) certified as a victim of severe forms of
9 trafficking in person pursuant to the federal Trafficking
10 Victims Protection Act of 2000.

11 Section 3. [NEW MATERIAL] INVOLUNTARY SERVITUDE--CIVIL
12 REMEDY FOR INVOLUNTARY SERVITUDE VICTIMS.--

13 A. An involuntary servitude victim may bring a
14 civil action in any court of competent jurisdiction for actual
15 damages, compensatory damages, punitive damages, injunctive
16 relief or any other appropriate relief. Where the court finds
17 that a defendant's actions were willful and malicious, the
18 court may award treble damages to the plaintiff. A prevailing
19 plaintiff is also entitled to recover reasonable attorney fees
20 and costs.

21 B. A civil action pursuant to this section shall be
22 forever barred unless the action is filed within ten years from
23 the date on which the involuntary servitude victim:

24 (1) was freed from forced labor or services;
25 or

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1 (2) attains eighteen years of age if the
2 victim was a minor when the defendant's actions occurred.

3 Section 4. APPROPRIATIONS.--

4 A. Two hundred fifty thousand dollars (\$250,000) is
5 appropriated from the general fund to the following agencies
6 for expenditure in fiscal year 2009 to provide benefits and
7 services for involuntary servitude victims in accordance with
8 Section 2 of this act:

9 (1) one hundred fifty thousand dollars
10 (\$150,000) to the children, youth and families department; and

11 (2) one hundred thousand dollars (\$100,000) to
12 the human services department.

13 B. Any unexpended or unencumbered balance remaining
14 at the end of fiscal year 2009 shall revert to the general
15 fund.

16 Section 5. EFFECTIVE DATE.--The effective date of the
17 provisions of this act is July 1, 2008.